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REMARKS

Applicant has carefully reviewed the Office Action dated July 6, 2004. Reconsideration and favorable action is respectfully requested.

Claims 1-12, 16, 18, 19-30, 33 and 35 stand rejected under 35 U.S.C. §103(a) as being unpatentable over the combination of *Hudetz et al.*, *Nelson* and *Russell*. This rejection is respectfully traversed with respect to the amended claims.

The Examiner is utilizing the *Hudetz* reference as teaching the steps of "retrieving location information," "in response to retrieving a location connection, connecting the activation system to the remote location" and "presenting the web page to the user." *Hudetz* is a system that provides for scanning of a code that relates to an article of manufacture, which is a user activated operation and this user activated operation is something that is originated at the user's computer. This is distinct from the claims wherein the activation system is separate from the triggering device and "extracts" the unique code from the "triggering" device. First, there is no unique code stored in the *Hudetz* scanner. Second, there is no activation system that is remote from the triggering device that in any way is disclosed as causing an "extraction" of the unique code from the triggering device. Even if one were to consider some kind of temporary storage (which is not disclosed in *Hudetz*), this still would not be "extracted" therefrom, as the user system will push the code from the scanner outward to the system. In general, this is a real time push and there is no disclosure that anything would be buffered for any purpose whatsoever. Therefore, the computer to which the scanner is connected cannot be considered to be the activation system, as the activation system is a physically separate device from the triggering device. To that end, there is no way that the activation device which is separate from the triggering device, can be used to connect to the remote location.

The Examiner has utilized the *Nelson* reference as indicative of a system wherein a portable "triggering" device having a unique code stored therein can be associated with an activation device for extraction of the information therein. This is a conventional transponder system which is typically referred to as an RFID tag system. These tags are typically passive, although some can be active, and they are operable to store a permanent code therein which can be extracted when they are passed by a base station. The base station is operable to transmit power to the RFID tag for the purpose of powering that tag, the result being the transmission of the code therefrom. Thus, there is an activation procedure wherein the code is retrieved from the triggering device or the RFID tag. However, there is no motivation or suggestion that this could replace a scanner. First, it operates

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considerably different than a scanner in that the code is permanently associated therewith, as opposed to a scanning device which scans an external code, wherein the scanner has no unique code stored therein. Even though the transponder systems typically will have some methodology wherein the code is retrieved and utilized for verification and even access, there is no suggestion that granting an access would in any way result in obtaining any location information that will correspond to location of a web page on a remote location disclosed on a network. The Examiner has utilized the *Russell* reference to show this step of "automatically" connecting. The *Russell* reference is a reference that does not have to retrieve location information associated with a unique code, since the location information is embedded within the unique code. Therefore, there would not be required any step of retrieving.

Applicant believes that the combination of the *Hudetz*, *Nelson* and *Russell* references is neither suggested nor is there any motivation to combine. The *Hudetz* reference is clearly a device that "pushes" a user selected code from a user system to the network for the purpose of retrieving information such that that information can be viewed by a user and then a connection made to a web page. There is no operation wherein a unique code is stored within the portable triggering device and that code is extracted with an activation device that is separate from the triggering device for the purpose of forcing display of a web page. The Examiner is utilizing a non-analogous RFID type transponder for showing this operation, which transponder is not utilized to retrieve web information and wherein the code has an associative relationship with a location on the network. As such, clearly a combination of *Nelson* and *Hudetz* is not proper. The primary reason that *Nelson* is not analogous is that *Nelson* is a system that provides for a single code in a transponder. *Hudetz* clearly is a system that teaches a scanner that must have the ability to scan one of a plurality of codes, so a unique code stored in the scanner for locating a web page would make the *Hudetz* system valueless for the purpose described therein. As such, *Hudetz* would teach away from a stored unique code as shown in *Nelson*. Therefore, Applicant respectfully requests withdrawal of the 35 U.S.C. §103(a) rejection with respect to the rejection of Claims 1-12, 16, 18, 19-30, 33 and 35.

Claims 13-15 and 31-32 stand rejected under 35 U.S.C. §103(a) as being unpatentable over the combination of *Hudetz*, *Nelson*, *Russell* and further in view of *Wellner*. Claims 13-15 depend from Claim 1 and, the *Wellner* reference does not cure the deficiency noted herein above with respect to the combination of *Hudetz*, *Nelson* and *Russell*. Claims 31-32 are dependent from Claim 31 and for the same reason, the addition of the *Wellner* reference does not cure the deficiencies noted herein above with respect to the combination of *Hudetz*, *Nelson* and *Russell* as applied to Claim 19. Therefore, Applicant respectfully requests withdrawal of the 35 U.S.C. §103(a) rejection with respect to Claims 13-15 and 31-32.

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Claims 19-22, 24, 26, 28-29, 33 and 35 stand rejected under 35 U.S.C. §103(a) as being unpatentable with the combination of *Rothschild* and *Schmitt*. This rejection is respectfully traversed.

The Examiner primarily takes exception with Applicant's argument that the *Rothschild* and *Schmitt* references are not a proper combination, as there is no motivation to combine both of these references for the purpose of utilizing the transponder of *Schmitt* to provide a code that can "automatically" access a web page by the mere fact of being proximate in the location to the activation device. In the case law, it is well settled that there must be a showing of a teaching or motivation to combine prior art references, which is an "essential evidentiary component of an obviousness holding" *C. R. Bard, Inc. v M3 Ssystems, Inc.*, 157F.3d 1340, 1352, 48USPQ2D (BNA) 1225, 1232 (Fed. Cir. 1998). If there is not a clear evidence of a suggestion, teaching or motivation to combine a prior art reference, the courts have held that this "simply takes the inventor's disclosure as a blueprint for piecing together the prior art to defeat patentability," this being evidence of hindsight. In re: *Dendiczak*, 175F.3d. 994, 999. In the instant case, one deficiency in the *Rothschild* reference is that associated with the scanner (16). This is set forth as being adapted to capture a UPC bar code encryption which is then transmitted from the desktop computer (12) to a modem to the implementing server (14). This is basically similar to *Hudetz* in that there really is no separate activation device which "extracts" the code from the document. Rather, the scanner (16) scans and basically transmits it, as opposed to being retrieved therefrom. In an enhancement to the system, there is provided a bar code or a scanner (16') that is input to a wireless PDA. Therefore, the PDA (20) is operable to store a number of bar codes. This is a system which is operable to collect a large number of UPC's. This downloading appears to be an operation wherein the user actively causes the PDA (20) to connect to the server and download information thereto. Again, there is no activation device that is separate from the scanner or the input device. Further, again, as noted herein above, there is no unique code that is stored in the scanner. The Examiner is utilizing the *Schmitt* reference to make this connection. Again, Applicant believes that there is no teaching or suggestion in *Rothschild* for using a wireless transponder that has a unique code that is "permanently" associated with that transponder, as *Rothschild* is a system that is utilized for extracting external codes to allow more versatility to the system. If a single code were associated with the scanner, the system would be useless and, therefore, *Rothschild* would teach away from utilizing the *Schmitt* device, as the *Schmitt* device has only a single code contained therein. Thus, if the *Schmitt* device were used, it could only connect to a single web page. Therefore, Applicant believes that there is no motivation or suggestion to combine the two references.

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Applicant brings to the Examiner's attention U.S. Patent Application Serial No. 09/659,520, which has claims directed toward similar concepts (Atty. Dkt. No. PHL-25,355).

Applicant has now made an earnest attempt in order to place this case in condition for allowance. For the reasons stated above, Applicant respectfully requests full allowance of the claims as amended. Please charge any additional fees or deficiencies in fees or credit any overpayment to Deposit Account No. 20-0780/PHLY-25,356 of HOWISON & ARNOTT, L.L.P.

Respectfully submitted,
HOWISON & ARNOTT, L.L.P.
Attorneys for Applicant



Gregory M. Howison
Registration No. 30,646

GMH/yoc/cr

P.O. Box 741715
Dallas, Texas 75374-1715
Tel: 972-479-0462
Fax: 972-479-0464
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